

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition of Viola  
Seals for a Declaration that the  
Department of Human Services is  
Enforcing a Policy Regarding  
Extension of Adoption Subsidy  
Agreements as though It is a Duly  
Adopted Rule

**ORDER GRANTING PERMISSION TO  
PROCEED IN FORMA PAUPERIS  
AND SETTING BRIEFING SCHEDULE**

WHEREAS, Viola Seals filed a Petition in this matter under Minn. Stat. § 14.381 on July 18, 2007, and an Amended Petition on July 24, 2007, in which she asserts that the Department of Human Services is enforcing or attempting to enforce a policy as though it were a duly adopted rule, and has also submitted a notarized Affidavit in which she seeks to proceed *in forma pauperis* in this matter;

WHEREAS, counsel for the Petitioner indicated in the cover letter accompanying the Petition that copies had been served upon the Commissioner of the Department of Human Services by mail but has not filed a Certificate of Service;

WHEREAS, pursuant to Minn. Statutes § 14.381, subd. 3, the agency (here, the Department of Human Services) is liable for all Office of Administrative Hearings costs associated with review of the petition but, if the Administrative Law Judge rules in favor of the agency, the agency may recover all or a portion of the costs from the Petitioner unless the Petitioner is entitled to proceed *in forma pauperis* under Minn. Stat. § 563.01 or the Administrative Law Judge determines that the petition was brought in good faith and that an assessment of the costs would constitute an undue hardship for the Petitioner;

WHEREAS, pursuant to Minnesota Statutes § 563.01, subd. 3, a petitioner may be authorized to commence an action without prepayment of fees, costs, and security for costs, upon the filing of an appropriate affidavit and a finding that that the action is not of a frivolous nature, and persons deemed to meet the requirements of the statute include “a person . . . who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency, or who has an annual income not greater than 125 percent of the poverty line” established under federal law;

WHEREAS, the Petitioner's affidavit indicates that the Petitioner is being represented by Southern Minnesota Regional Legal Services, Inc., because her income is below 125% of the federal poverty guidelines; and

WHEREAS, the Petitioner's initiation of this proceeding does not appear to be frivolous in nature;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Petitioner shall be permitted to proceed *in forma pauperis* in this matter.
2. The Department of Human Services shall serve and file its written response to the Petition within ten working days of its receipt of this Order.
3. The Petitioner shall serve and file her written reply to the Department's submission within ten working days of her receipt of the Department's submission.

Dated: August 17, 2007

s/Barbara L. Neilson

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BARBARA L. NEILSON  
Administrative Law Judge